

PROB. 12B
(7/93)

ORIGINAL

United States District Court

for the

DISTRICT OF HAWAII

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

AUG 06 2008

at 2 o'clock and 50 min. P.M.
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: TONIENG ERLANDIZ, JR. Case Number: CR 00-00286DAE-05

Name of Sentencing Judicial Officer: The Honorable David Alan Ezra
U.S. District Judge

Date of Original Sentence: 3/5/2001

Original Offense: Count 1: Conspiracy to Distribute and Possess With Intent to Distribute in Excess of 50 Grams of Crystal Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846, a Class A felony

Count 4: Aiding and Abetting the Possession With Intent to Distribute in Excess of 50 Grams of Crystal Methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2

Original Sentence: One hundred eight (108) months imprisonment, to be followed by five (5) years supervised release with the following special conditions: 1) That the defendant is prohibited from possessing any illegal or dangerous weapons; 2) That the defendant provide the Probation Office access to any requested financial information; and 3) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office.

Type of Supervision: Supervised Release Date Supervision Commenced: 5/3/2007

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

General Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervision (mandatory condition).

Special Condition No. 3: That the defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1. Special Condition No. 3	The offender failed to comply with drug testing that was part of the treatment regimen on 11/19/2007 and 1/2/2008.

Per the special condition, the offender was referred to Freedom Recovery Services (FRS) for outpatient substance abuse counseling and random drug testing. Our office was informed by FRS that on 11/19/2007 and 1/2/2008, the offender failed to submit a urine specimen for testing. For both occasions, the offender admitted that he simply forgot to call FRS for drug testing instructions. The offender was admonished and warned to be more careful. The offender completed substance abuse counseling and drug testing at FRS in May 2008.

Considering the offender's past problems with marijuana, cocaine, and methamphetamine prior to his instant offense, and in light of United States vs. Stephens, we are requesting that the Court modify the mandatory drug testing condition (General Condition) to allow for additional drug testing. We are also requesting that Special Condition No. 3 be revised to include updated language. Our office believes that it is prudent to randomly test the offender for illicit drug use until the expiration of supervision.

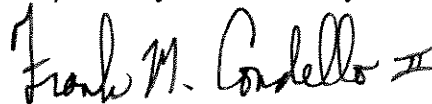
As noted by his signature on the attached Waiver of Hearing form (Probation Form 49), the offender maintains no objections to this recommendation. The offender's

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attorney and the U.S. Attorney's Office have been notified of the proposed modifications and have expressed no objections.

Respectfully submitted by,



FRANK M. CONDELLO, II
U.S. Probation Officer

Approved by:

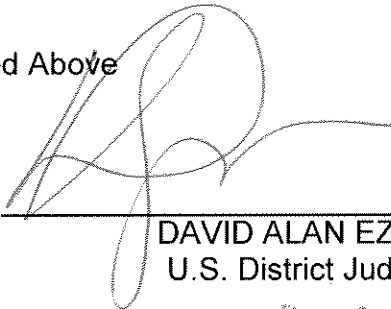


GENE DeMELLO, JR.
Supervising U.S. Probation Officer

Date: 8/5/2008

THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other



DAVID ALAN EZRA
U.S. District Judge

AUG 06 2008

Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

☒ To modify the conditions of supervision as follows:

General Condition:

That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervision (mandatory condition).

Special Condition No. 3:

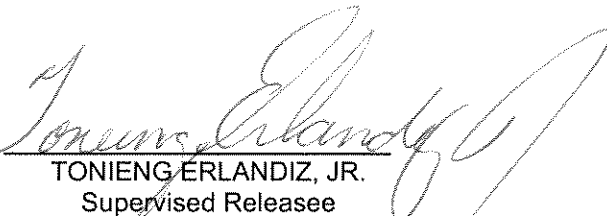
That the defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

Witness:



FRANK M. CONDELLO, II
U.S. Probation Officer

Signed:


TONIENG ERLANDIZ, JR.
Supervised Releasee


Date